

COUNTY COUNCIL  
OF  
HARFORD COUNTY, MARYLAND

BILL NO. 05-05

Introduced by Council President Wagner at the request of the County Executive,

Council President Wagner and Council Member Chenoweth

Legislative Day No. 05-06 Date February 15, 2005

AN ACT to add new Article VI, Public School Development Impact Fee, to Chapter 123, Finance and Taxation, of the Harford County Code, as amended; to provide for the imposition of a school development impact fee; and generally relating to the establishment of the affected area, to the payment, collection and amount of school development impact fees and the exemption for certain types of development.

By the Council, February 15, 2005

Introduced, read first time, ordered posted and public hearing scheduled

on: March 15, 2005

at: 7:00

By Order: Barbara J. Ruth, Council Administrator

**PUBLIC HEARING**

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on \_\_\_\_\_, and concluded on, \_\_\_\_\_.  
\_\_\_\_\_, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

WHEREAS, the Administration and the County Council realized in 2003 that there existed a need for a new revenue source for school acquisition, renovation, capital expenses and debt reduction; and

WHEREAS, the General Assembly, in 2004, adopted House Bill 965 (Article 24, Subtitle 10A, Harford County School Construction Financing, Section 9-10A-01); and

WHEREAS, House Bill 965 enabled the County to enact, as a local piece of legislation, a development impact fee on new construction and development; and

WHEREAS, a School Impact Fee study was prepared by Tischler & Associates, Inc. and presented to the County in 2004; and

WHEREAS, the revenues generated by the fee are to be used only for school construction, site acquisition, renovation, capital expenses and reduction of school debt.

NOW, THEREFORE,

Section 1. Be It Enacted By The County Council of Harford County, Maryland that Article VI, Public School Development Impact Fee, be, and it is hereby, added to Chapter 123, Finance and Taxation, of the Harford County Code, as amended, all to read as follows:

**Chapter 123. Finance and Taxation**

**ARTICLE VI. PUBLIC SCHOOL DEVELOPMENT IMPACT FEE**

**§ 123-55. PURPOSE AND INTENT.**

THE PURPOSE AND INTENT OF THIS ARTICLE IS:

A. TO ESTABLISH UNIFORM PROCEDURES FOR THE IMPOSITION, COLLECTION, EXPENDITURE AND ADMINISTRATION OF DEVELOPMENT IMPACT FEES IMPOSED ON NEW DEVELOPMENT. DEVELOPMENT, FOR PURPOSES OF THIS ARTICLE, MEANS ANY NEW RESIDENTIAL STRUCTURE FOR WHICH A BUILDING PERMIT IS

1 REQUIRED, BUT DOES NOT INCLUDE ANY RENOVATIONS, ADDITIONS OR  
2 MODIFICATIONS TO AN EXISTING RESIDENTIAL STRUCTURE.

3 B. TO IMPLEMENT THE GOALS, OBJECTIVES AND POLICIES OF THE  
4 HARFORD COUNTY SCHOOL CONSTRUCTION FINANCING ACT OF 2004 (ARTICLE 24,  
5 SUBTITLE 10A, SECTION 9-10A-01 OF THE ANNOTATED CODE OF MARYLAND)  
6 RELATING TO ASSURING THAT NEW DEVELOPMENT CONTRIBUTES ITS FAIR SHARE  
7 TOWARDS THE COSTS OF PUBLIC SCHOOLS REASONABLY NECESSITATED BY SUCH  
8 NEW DEVELOPMENT.

9 C. TO ENSURE THAT NEW DEVELOPMENT IS REASONABLY BENEFITTED BY  
10 THE CONSTRUCTION OF NEW PUBLIC SCHOOLS BUILT IN WHOLE OR IN PART WITH  
11 THE PROCEEDS OF DEVELOPMENT IMPACT FEES.

12 D. TO ENSURE THAT ALL APPLICABLE LEGAL STANDARDS AND CRITERIA  
13 ARE PROPERLY INCORPORATED IN THESE PROCEDURES.

14 E. TO INCORPORATE HEREIN BY REFERENCE AS IF IT WERE FULLY STATED  
15 THE SCHOOL IMPACT FEE REPORT DATED DECEMBER 2, 2004 PREPARED BY TISCHLER  
16 & ASSOCIATES, INC.

17 **§ 123-56. GENERAL PROVISIONS; APPLICABILITY.**

18 A. TERM. THIS CHAPTER AND THE PROCEDURES ESTABLISHED HEREIN  
19 SHALL REMAIN IN EFFECT UNLESS AND UNTIL REPEALED, AMENDED OR MODIFIED  
20 BY THE GOVERNING BODY IN ACCORDANCE WITH APPLICABLE STATE LAW AND THE  
21 COUNTY CODE, ORDINANCES AND RESOLUTIONS.

22 B. AFFECTED AREA.

1           (1)     COUNTY-WIDE APPLICATION. THIS CHAPTER SHALL APPLY TO  
2     ALL NEW DEVELOPMENT WITHIN THE COUNTY, INCLUDING NEW DEVELOPMENT  
3     WHICH TAKES PLACE WITHIN THE BOUNDARIES OF ANY MUNICIPALITY.

4           (2)     MUNICIPALITIES. IMPACT FEES ON NEW DEVELOPMENT WITHIN  
5     MUNICIPALITIES SHALL BE COLLECTED BY ALL MUNICIPALITIES AT THE BUILDING  
6     PERMIT STAGE AND REMITTED TO THE COUNTY QUARTERLY.

7           C.     ANNUAL REVIEW.

8           (1)     PREPARATION OF ANNUAL REPORT. AT LEAST ONCE EVERY  
9     YEAR, BUT NOT LATER THAN MAY OF EACH YEAR, BEGINNING MAY 31, 2006, AND  
10    PRIOR TO THE COUNTY'S ADOPTION OF THE ANNUAL BUDGET ORDINANCE, THE  
11    TREASURER SHALL COORDINATE THE PREPARATION AND SUBMISSION OF AN  
12    ANNUAL REPORT TO THE COUNTY COUNCIL AND THE HARFORD COUNTY  
13    DELEGATION ON THE REVENUES GENERATED BY THE DEVELOPMENT IMPACT FEE  
14    AND HOW THOSE REVENUES WERE SPENT.

15          (2)     SUBMISSION OF DEVELOPMENT IMPACT FEE ANNUAL REPORT  
16    AND COUNTY COUNCIL ACTION. THE COUNTY COUNCIL, WHEN IT RECEIVES THE  
17    ANNUAL REPORT, MAY TAKE SUCH ACTIONS AS IT DEEMS APPROPRIATE, INCLUDING,  
18    BUT NOT LIMITED TO, REQUESTING ADDITIONAL DATA OR ANALYSES AND HOLDING  
19    PUBLIC WORKSHOPS OR PUBLIC HEARINGS.

20          D.     EFFECT OF PAYMENT OF DEVELOPMENT IMPACT FEE ON OTHER  
21    APPLICABLE COUNTY LAND USE, ZONING, PLATTING, SUBDIVISION OR DEVELOPMENT  
22    REGULATIONS.

(1) THE PAYMENT OF DEVELOPMENT IMPACT FEES SHALL NOT ENTITLE THE APPLICANT TO A BUILDING PERMIT UNLESS ALL OTHER APPLICABLE LAND USE, ZONING, PLANNING, ADEQUATE PUBLIC FACILITIES, FOREST CONSERVATION, PLATTING, SUBDIVISION OR OTHER RELATED REQUIREMENTS, STANDARDS AND CONDITIONS HAVE BEEN MET. SUCH OTHER REQUIREMENTS, STANDARDS AND CONDITIONS ARE INDEPENDENT OF THE REQUIREMENT FOR PAYMENT OF A DEVELOPMENT IMPACT FEE.

(2) NOTHING IN THIS CHAPTER SHALL AFFECT, IN ANY MANNER, THE PERMISSIBLE USE OF PROPERTY, DENSITY/INTENSITY OF DEVELOPMENT, DESIGN AND IMPROVEMENT STANDARDS OR OTHER APPLICABLE STANDARDS OR REQUIREMENTS OF THE ZONING CODE OR SUBDIVISION REGULATIONS OF THE COUNTY OR ANY MUNICIPALITY, WHERE APPLICABLE.

**§ 123-57. REFUNDS.**

**A. ELIGIBILITY FOR REFUND.**

(1) EXPIRATION OR REVOCATION OF BUILDING PERMIT. AN APPLICANT WHO HAS PAID A DEVELOPMENT IMPACT FEE FOR A NEW DEVELOPMENT FOR WHICH THE NECESSARY BUILDING PERMIT HAS EXPIRED OR FOR WHICH THE BUILDING PERMIT HAS BEEN REVOKED PRIOR TO CONSTRUCTION SHALL BE ELIGIBLE TO APPLY FOR A REFUND.

(2) FAILURE OF THE COUNTY TO USE OR APPROPRIATE DEVELOPMENT IMPACT FEE FUNDS WITHIN TIME LIMIT. THE CURRENT PROPERTY OWNER MAY APPLY FOR A REFUND OF DEVELOPMENT IMPACT FEES PAID BY AN APPLICANT IF THE COUNTY HAS FAILED TO USE OR APPROPRIATE THE

DEVELOPMENT IMPACT FEES COLLECTED FROM THE APPLICANT WITHIN 8 YEARS  
FROM THE DATE OF PAYMENT.

(3) ABANDONMENT OF DEVELOPMENT AFTER INITIATION OF  
CONSTRUCTION. AN APPLICANT WHO HAS PAID A DEVELOPMENT IMPACT FEE FOR A  
NEW DEVELOPMENT FOR WHICH A BUILDING PERMIT HAS BEEN ISSUED AND  
PURSUANT TO WHICH CONSTRUCTION HAS BEEN INITIATED, BUT WHICH  
CONSTRUCTION IS ABANDONED PRIOR TO COMPLETION AND ISSUANCE OF A  
CERTIFICATE OF OCCUPANCY, SHALL NOT BE ELIGIBLE FOR A REFUND UNLESS THE  
UNCOMPLETED BUILDING IS COMPLETELY DEMOLISHED.

B. REFUNDS SHALL BE MADE ONLY TO THE CURRENT OWNER OF  
PROPERTY ON WHICH THE NEW DEVELOPMENT WAS PROPOSED OR OCCURRED.

**§ 123-58. SERVICE AREA.**

THE APPLICABLE SERVICE AREA (THE "SERVICE AREA") FOR IMPOSITION OF A  
PUBLIC SCHOOL DEVELOPMENT IMPACT FEE IS THE ENTIRE COUNTY, INCLUDING ALL  
MUNICIPALITIES.

**§ 123-59. AMOUNT OF IMPACT FEE.**

ALL NEW DEVELOPMENT IN THE SERVICE AREA SHALL BE SUBJECT TO THE  
PAYMENT OF A PUBLIC SCHOOL DEVELOPMENT IMPACT FEE PAYABLE AT THE TIME  
OF APPLICATION FOR A BUILDING PERMIT BY THE COUNTY OR A MUNICIPALITY, AS  
APPLICABLE, PURSUANT TO THIS CHAPTER, AS FOLLOWS:

	<b>IMPACT FEE PER</b>
<b>RESIDENTIAL DEVELOPMENT</b>	<b>DWELLING UNIT</b>
SINGLE-FAMILY DETACHED	\$8,269

TOWNHOUSE/DUPLEX \$5,720

ALL OTHER RESIDENTIAL (INCLUDING MOBILE HOMES) \$1,637

**§ 123-60. EXEMPTIONS.**

A. THE DEVELOPMENT OR CONSTRUCTION OF HOUSING FOR THE ELDERLY SHALL BE EXEMPT FROM PAYMENT OF A PUBLIC SCHOOL DEVELOPMENT IMPACT FEE, PROVIDED THAT:

(1) ALL REQUESTS FOR EXEMPTION UNDER THIS SECTION SHALL BE SUBMITTED TO THE DIRECTOR OF PLANNING AND ZONING; AND

(2) ALL SUCH HOUSING SHALL CONTAIN A DEED RESTRICTION RECORDED AGAINST THE PROPERTY, IN FORM SATISFACTORY TO THE HARFORD COUNTY ATTORNEY, WHICH DEED RESTRICTION SHALL PROVIDE, AMONG OTHER THINGS, THAT SUCH HOUSING IS RESTRICTED TO OCCUPANCY BY OLDER PERSONS, IN COMPLIANCE WITH THE TERMS AND PROVISIONS OF THE FEDERAL FAIR HOUSING ACT AND THE HARFORD COUNTY ZONING CODE, AS AMENDED.

B. IN ADDITION TO THE ABOVE, CONTINUING CARE RETIREMENT COMMUNITIES ("CCRC") AND THOSE USES LISTED UNDER TRANSIENT HOUSING IN THE ZONING CODE, WITH THE EXCEPTION OF MIXED USES, ARE ALSO EXEMPT FROM PAYMENT OF THE DEVELOPMENT IMPACT FEE.

Section 2. And Be It Further Enacted that this Act shall take effect 60 calendar days from the date it becomes law.

Section 3. And Be It Further Enacted that this Act shall apply to building permits issued on or after July 1, 2005.

EFFECTIVE:

*The Council Administrator does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.*

  
\_\_\_\_\_  
Council Administrator